

DISTRICT ATTORNEY

COUNTY OF NEW YORK

ONE HOGAN PLACE

New York, N. Y. 10013

(212) 335-9000



ALVIN L. BRAGG, JR.
DISTRICT ATTORNEY

May 3, 2022

BY ECF

The Honorable Paul G. Gardephe
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Kinsman v. Rawson*, 1:22-cv-03338-PGG-SDA

Dear Judge Gardephe:

I represent respondent Boyce Rawson, Supreintendant of Bare Hill Correctional Facility, in the above-captioned habeas corpus case. I request that this matter be transferred to Judge Colleen McMahon. SDNY Rules for the Division of Business Among District Judges (hereafter, the “Rules”), Rule 13(b)(3). Judge McMahon has already been assigned to preside over *Hare v. Rockwood*, 1:22-cv-03190-CM-KHP, a related habeas matter with a lower docket number.

The instant habeas petition and *Hare v. Rockwood* pertain to the same August 2019 criminal trial, which was held before Justice Mark Dwyer in Supreme Court, New York County. Following that trial, the jury convicted petitioner John Kinsman and his jointly-tried codefendant Maxwell Hare of several of the same crimes; their convictions pertained to the same underlying gang assault; and on direct appeal, the Appellate Division, First Department, unanimously affirmed Kinsman and Hare’s convictions in the same, consolidated opinion. *People v. Kinsman*, 191 A.D.3d 539, 539-41 (1st Dept. 2021). Moreover, Kinsman and Hare filed a “joint memorandum” of law in connection with each of their habeas petitions, which they acknowledge raises the “same” issues “for both Peititioner John Kinsman and Maxwell Hare” (ECF, no. 4). Indeed, almost all of the factual recitations and legal arguments in Kinsman’s memorandum of law (ECF, no. 4) duplicate, word for word, the memorandum of law that Hare already submitted to Judge McMahon. Petitioner’s Memorandum of Law, *Hare v. Rockwood*, 1:22-cv-03190-CM-KHP (SDNY Apr. 20, 2022).

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Plainly, these two habeas matters are related to one another. They “concern the same ... parties,” “transactions,” and “events.” Rule 13(a)(1)(A). There is ample “factual overlap.” Rule 13(a)(1)(B). And, “absent a determination of relatedness there would be a substantial duplication” of effort between Your Honor and Judge McMahon, particularly because Kinsman and Hare filed identical memoranda of law that pertain to the same criminal trial. Rule 13(a)(1)(C). Thus, respondent respectfully submits that the “interests of justice and efficiency” would be best served if these two petitions were heard together. Rule 13(a)(1).

Thank you for your consideration.

Sincerely,



John T. Hughes (5323514)
Assistant District Attorney
(212) 335-9337
hughesj@dany.nyc.gov

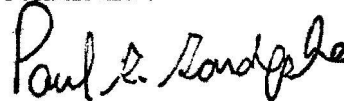
cc: Ronald Paul Hart
225 Broadway, Suite 192
New York, NY 10007
ronaldphartesq@gmail.com

Frantzgermain Bernadin
211 East 43rd Street, Suite 743
New York, NY 10017-4707
gbernadin@bernadinlaw.com

MEMO ENDORSED:

The application is denied.

SO ORDERED.



Paul G. Gardephe
United States District Judge
Dated: September 26, 2022